

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF EMPIRE STATE CARPENTERS
ANNUITY, APPRENTICESHIP, LABOR-
MANAGEMENT COOPERATION, PENSION AND
WELFARE FUNDS,

MEMORANDUM & ORDER
13-CV-2769 (JS) (ARL)

Plaintiffs,

-against-

HVH ENTERPRISE CORP.,

Defendant.

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APPEARANCES

For Plaintiffs: Charles R. Virginia, Esq.
Richard B. Epstein, Esq.
Virginia & Ambinder LLP
111 Broadway, Suite 1403
New York, NY 10006

For Defendant: No appearances.

SEYBERT, District Judge:

Currently pending before the Court is plaintiffs
Trustees of Empire State Carpenters Annuity, Apprenticeship,
Labor-Management Cooperation, Pension and Welfare Funds'
("Plaintiffs") motion for default judgment and Magistrate Judge
Arlene R. Lindsay's Report and Recommendation ("R&R"). For the
following reasons, the Court ADOPTS this R&R in its entirety.

BACKGROUND

Plaintiffs commenced this action on May 9, 2013
against defendant HVH Enterprise Corp. ("Defendant") seeking to
confirm an arbitration award entered in favor of Plaintiffs.

Specifically, Plaintiffs brought this action pursuant to Section 502(a)(3) of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. § 1132(a)(3); Section 301 of the Labor Management Relations Act of 1947, as amended 29 U.S.C. § 185; and Section 9 of the Federal Arbitration Act, 9 U.S.C. § 9 regarding an arbitrator's award rendered pursuant to a collective bargaining agreement between Northeast Regional Council of Carpenters and Defendant. Defendant did not answer or otherwise appear in this action.

Plaintiffs requested a certificate of default on June 5, 2013 (Docket Entry 5), which was entered by the Clerk of the Court the following day (Docket Entry 6). On July 30, 2013, Plaintiffs moved for default (Docket Entry 7), and, on August 16, 2013, the Court referred Plaintiffs' motion to Judge Lindsay (Docket Entry 9).

On February 12, 2014, Judge Lindsay issued an R&R recommending that a default judgment be entered against Defendant and that the arbitration award be confirmed in the amount of \$40,881.96, plus interest in the amount of \$1,221.95. She further recommended that Plaintiffs be awarded \$1,659 in attorneys' fees and \$483.91 in costs, for a total award of \$44,246.82.

No party has objected to any portion of Judge Lindsay's R&R.

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on the face of the record." Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Here, no party objected to Judge Lindsay's R&R. And the Court finds her R&R to be correct, comprehensive, well-reasoned and free of any clear error. Accordingly, the Court ADOPTS it in its entirety.

CONCLUSION

Judge Lindsay's R&R is ADOPTED in its entirety, and Plaintiffs' motion for default is GRANTED. Plaintiffs are hereby awarded a judgment against Defendant in the amount of \$44,246.82, broken down as follows:

- (1) \$40,881.96, confirming the arbitration award;
- (2) \$1,221.95 in interest;
- (3) \$1,659.00 in attorneys' fees; and
- (4) \$483.91 in costs.

The Clerk of the Court is directed to enter a Judgment consistent with this Memorandum and Order and to mark this matter CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: March 10, 2014
Central Islip, NY